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Department of the Treasury
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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number:

Refer Reply To:
CC:CORP:B04
PLR-146798-14
Date:
June 23, 2015

Legend

Distributing =

Controlled =

Subsidiary 1 =

Subsidiary 2 =

LLC 1 =

$$LP =$$

Business A =

State =

a =

b =

c =

Date =

Dear :

This letter responds to your December 22, 2014, letter requesting a ruling on certain federal income tax consequences of a proposed transaction (the “Proposed Transaction”). Additional information was submitted in letters dated April 20, 2015, May 11, 2015, May 21, 2015, June 3, 2015, and June 23, 2015. The information provided in the request and subsequent correspondence is summarized below.

The ruling contained in this letter is based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by the appropriate party. While this office has not verified any of the materials submitted in support of the request for ruling, it is subject to verification on examination.

This letter is issued pursuant to section 6.03 of Rev. Proc. 2015-1, 2015-1 I.R.B. 1, regarding one or more significant issues under §§ 332, 351, 355, 368, or 1036. The ruling contained in this letter only addresses one discrete legal issue involved in the transaction. This Office expresses no opinion as to the overall tax consequences of the transactions described in this letter or as to any issue not specifically addressed by the ruling below.

Summary of Facts

Distributing is the common parent of a consolidated group (the “Distributing Group”). The authorized and outstanding capital stock of Distributing consists of two classes of common stock (the “Distributing Class A Stock” and the “Distributing Class B Stock,” and collectively, the “Distributing Common Stock”).

Distributing wholly owns Subsidiary 1 and LLC 1. Subsidiary 1 wholly owns Subsidiary 2. Each of Distributing, Subsidiary 1, and Subsidiary 2 is classified as a corporation for federal income tax purposes under §§ 301.7701-2 and -3 and is a

member of the Distributing Group. LLC 1 is an entity disregarded as separate from its owner for federal income tax purposes under § 301.7701-3 (a “disregarded entity”). Prior to the Proposed Transaction, Subsidiary 2 and LLC 1 own approximately a and b percent of LP, respectively. LP is classified as a partnership for federal income tax purposes under § 301.7701-3. LP owns, directly or indirectly, all of the interests in various limited liability companies, foreign corporations, or partnerships, each of which is a disregarded entity (the “LP DEs”). LP and the LP DEs operate Business A and other businesses.

Proposed Transaction

Distributing is entering into the Proposed Transaction in order to facilitate the distribution of Business A to its shareholders.

- (1) LP formed Controlled, a State corporation, on Date.
- (2) Subsidiary 2 will convert to a limited liability company that will be classified as a disregarded entity for federal income tax purposes under § 301.7701-3.
- (3) Prior to the date of the Distribution (defined below), LP will borrow up to \$c (the “Borrowing Proceeds”).
- (4) LP will restructure the assets and liabilities of the LP DEs so that they are separated and either (A) will be held directly by LP or owned by disregarded entities that will remain with LP (Retained DEs) or (B) will be held directly by Controlled or owned by disregarded entities that will be transferred to Controlled (Controlled DEs) .
- (5) LP will contribute the Controlled DEs, all or substantially all of the directly held assets relating to Business A, and a portion of the Borrowing Proceeds, to Controlled in exchange for all the issued and outstanding stock of Controlled and the assumption of various liabilities in a transaction intended to qualify under § 351 and in which amounts may be taken into the gross income of LP pursuant to Rev. Proc. 2004-34, 2004-1 C.B. 991 (the “Partnership Contribution”).
- (6) LP will distribute all of the stock of Controlled to LLC 1 in a distribution in partial redemption of LLC 1’s interest in LP in which gain may be recognized under § 751, (the “Partnership Distribution”). LLC 1 will distribute all of the stock of Controlled to Distributing.
- (7) In a transaction intended to qualify under § 368(a)(1)(E), Controlled will file an amended and restated certificate of incorporation, pursuant to which Controlled’s outstanding common stock will be recapitalized as Controlled Class A Common Stock (the “Controlled Class A Stock”) and Controlled Class B Common Stock (the “Controlled Class B Stock,” and collectively with the Controlled Class A Stock, the “Controlled

Stock”) and Controlled will issue to Distributing a sufficient number of shares of each class necessary to effect the Distribution described in step (8).

(8) After steps (1) through (7), Distributing will distribute all of the Controlled Class A Stock pro rata to holders of Distributing Class A Stock with respect to such stock and all of the Controlled Class B Stock pro rata to holders of Distributing Class B Stock with respect to such stock in a transaction intended to qualify under § 355 (the “Distribution”).

Representations

The following representations have been made regarding the Proposed Transaction:

(a) For the entire five-year period ending on the date of the Distribution, (i) members of Distributing’s separate affiliated group within the meaning of § 355(b)(3)(B) have owned all of the interests in LP and (ii) LP has conducted a portion of Business A qualifying as an active trade or business within the meaning of § 355(b) directly or through the LP DEs.

(b) Except with respect to the acceleration of income under § 481 pursuant to Rev. Proc. 2004-34, no income or gain will be recognized in connection with the Partnership Contribution.

(c) Except with respect to the possible recognition of gain under § 751, no income or gain will be recognized in connection with the Partnership Distribution.

Ruling

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the Proposed Transaction:

The fact that gain or loss may be recognized under § 751 or that income may be taken into account by LP under Rev. Proc. 2004-34 as a result of the Proposed Transaction will not prevent Controlled from satisfying the active trade or business requirement of § 355(b).

Caveats

No opinion is expressed or implied about the federal income tax consequences of any other aspect of any transaction or item discussed or referenced in this letter, or the federal income tax treatment of any conditions existing at the time of, or effects resulting from, the Transaction that are not specifically covered by the above rulings.

Procedural Statements

This ruling letter is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter ruling must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

Sincerely,

Ken Cohen

Ken Cohen
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel (Corporate)